

## SB0223S01 compared with SB0223

~~deleted text~~ shows text that was in SB0223 but was deleted in SB0223S01.

inserted text shows text that was not in SB0223 but was inserted into SB0223S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Aaron Osmond proposes the following substitute bill:

### USTAR GOVERNANCE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Aaron Osmond**

House Sponsor: \_\_\_\_\_

---

#### LONG TITLE

##### General Description:

This bill modifies provisions regarding the Utah Science Technology and Research Governing Authority.

##### Highlighted Provisions:

This bill:

- ▶ modifies certain intent language regarding the Utah Science Technology and Research Governing Authority;
- ▶ requires that prospective gubernatorial appointees to the Utah Science Technology and Research Governing Authority be approved by the Senate;
- ▶ gives the governor authority to remove a member of the Utah Science Technology and Research Governing Authority before a member's term is completed;
- ▶ modifies provisions of the technology outreach innovation program; and

## SB0223S01 compared with SB0223

- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

[63B-15-101, as enacted by Laws of Utah 2006, Chapter 123](#)

[63B-19-101, as enacted by Laws of Utah 2010, Chapter 181](#)

**63M-2-102**, as last amended by Laws of Utah 2014, Chapter 186

**63M-2-202**, as last amended by Laws of Utah 2014, Chapter 186

**63M-2-204**, as last amended by Laws of Utah 2014, Chapter 186

**63M-2-301**, as last amended by Laws of Utah 2014, Chapter 186

**63M-2-302**, as last amended by Laws of Utah 2014, Chapter 186

**63M-2-401**, as enacted by Laws of Utah 2014, Chapter 186

**63M-2-402**, as enacted by Laws of Utah 2014, Chapter 186

---

*Be it enacted by the Legislature of the state of Utah:*

[Section 1. Section 63B-15-101 is amended to read:](#)

**63B-15-101. Capital facilities bonds -- Utah Science Technology and Research Governing Authority -- Maximum amount -- Projects authorized.**

(1) (a) The total amount of bonds issued under this section may not exceed \$111,100,000.

(b) When Utah State University certifies to the commission that the university has obtained reliable commitments, convertible to cash, of \$10,000,000 or more in nonstate funds to construct the Bio Innovations Research Institute, and when the chairs of the Legislature's Executive Appropriations Committee have certified that the committee has heard a presentation by the chair of the bonding commission and the Utah Science Technology and Research Governing Authority on the project, the commission may issue and sell general obligation bonds in a total amount not to exceed \$40,400,000.

(c) When the University of Utah certifies to the commission that the university has

**SB0223S01 compared with SB0223**

obtained reliable commitments, convertible to cash, of \$30,000,000 or more in nonstate funds to construct the Neuroscience and Biomedical Technology Research Building, and when the chairs of the Legislature's Executive Appropriations Committee have certified that the committee has heard a presentation by the chair of the bonding commission and the Utah Science Technology and Research Governing Authority on the project, the commission may issue and sell general obligation bonds in a total amount not to exceed \$70,700,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the Utah Science Technology and Research Governing Authority to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the Utah Science Technology and Research Governing Authority, proceeds shall be provided for the following:

CAPITAL DEVELOPMENT PROJECTS		
Project Description	Estimated Operations and Maintenance	Amount Funded
Bio Innovations Research Institute --		
Utah State University	\$0	\$40,000,000
Neuroscience and Biomedical Technology		
Research Building -- University of Utah	\$0	\$70,000,000
<b>TOTAL CAPITAL DEVELOPMENT PROJECTS</b>		<b>\$110,000,000</b>
<b>TOTAL GENERAL OBLIGATION BOND AUTHORIZATION FOR</b>		<b>\$110,000,000</b>
<b>CAPITAL DEVELOPMENT PROJECTS</b>		

~~(d) The Legislature intends that the Utah Science Technology and Research Governing Authority pay the operations and maintenance costs on the research buildings~~

## SB0223S01 compared with SB0223

authorized by this section.<sup>1</sup>

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for the projects.

(b) The commission, by resolution and in consultation with the Utah Science Technology and Research Governing Authority, may delete the project if the inclusion of that project could be construed to violate state law or federal law or regulation.

(4) The Utah Science Technology and Research Governing Authority may enter into agreements related to the project before the receipt of proceeds of bonds issued under this chapter.

(5) The commission or the state treasurer may make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(6) The commission may not issue or execute bonds authorized by this section that have a maturity date or dates of more than 20 years after the date of delivery of the bonds.

(7) The Utah Science Technology and Research Governing Authority shall contract with the Division of Facilities Construction and Management to oversee construction of the buildings.

(8) The Utah Science Technology and Research Governing Authority may not delegate authority over construction of the capitol development projects identified in this section to any entity other than the Division of Facilities Construction and Management.

Section 2. Section 63B-19-101 is amended to read:

**63B-19-101. Capital facilities bonds -- Utah Science Technology and Research Governing Authority -- Maximum amount -- Projects authorized.**

(1) The bonds issued under this section may not exceed \$46,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any debt service reserve requirements, with the total amount of the bonds not to exceed \$46,460,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the Utah Science Technology and Research Governing Authority to provide funds to pay all or part of the cost of constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all

**SB0223S01 compared with SB0223**

structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the Utah Science Technology and Research Governing Authority, proceeds shall be provided for the following:

CAPITAL DEVELOPMENT PROJECTS		
Project Description	Estimated Operations and Maintenance	Amount Funded
-----		
Bio Innovations Research Institute --		
Utah State University	\$0	\$18,400,000
Neuroscience and Biomedical Technology	\$0	\$27,600,000
Research Building -- University of Utah		
<b>TOTAL CAPITAL DEVELOPMENT PROJECTS</b>		<b>\$46,000,000</b>
-----		
<b>ADDITIONAL AUTHORIZED AMOUNTS</b>		<b>\$460,000</b>
-----		
<b>TOTAL GENERAL OBLIGATION BOND AUTHORIZATION FOR CAPITAL DEVELOPMENT PROJECTS</b>		<b>\$46,460,000</b>
-----		

~~[(d) The Legislature intends that the Utah Science Technology and Research Governing Authority pay the operations and maintenance costs on the research buildings authorized by this section.]~~

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for the projects.

(b) The commission, by resolution and in consultation with the Utah Science Technology and Research Governing Authority, may delete the project if the inclusion of that project could be construed to violate state law or federal law or regulation.

(4) The Utah Science Technology and Research Governing Authority may enter into agreements related to the project before the receipt of proceeds of bonds issued under this chapter.

(5) The commission or the state treasurer may make any statement of intent relating to

## SB0223S01 compared with SB0223

that reimbursement that is necessary or desirable to comply with federal tax law.

(6) The Utah Science Technology and Research Governing Authority shall contract with the Division of Facilities Construction and Management to oversee construction of the buildings.

(7) The Utah Science Technology and Research Governing Authority may not delegate authority over construction of the capital development projects identified in this section to any entity other than the Division of Facilities Construction and Management.

Section ~~11~~3. Section **63M-2-102** is amended to read:

### **63M-2-102. Definitions.**

As used in this chapter:

(1) "Commercialization revenues" means dividends, realized capital gains, license fees, royalty fees, and all other revenues received by a university as a result of commercial applications, inventions, or intellectual property developed from the USTAR initiative, less:

- (a) the portion of [~~those~~] revenues allocated to the inventor; and
- (b) expenditures incurred by the university to legally protect the intellectual property.

(2) "Executive director" means the person appointed [~~by the governing authority~~] under Section 63M-2-301.

(3) "Research buildings" means any of the buildings listed in Section 63M-2-201.

(4) "Research universities" means the University of Utah and Utah State University.

(5) "Technology outreach innovation program" or "TOIP" means the program described in Section 63M-2-202.

(6) "USTAR governing authority" means the Utah Science Technology and Research Governing Authority created in Section 63M-2-301.

(7) (a) "USTAR initiative" means the Utah Science Technology and Research Initiative created in Section 63M-2-301.

(b) "USTAR initiative" includes the projects, operations, activities, programs, and services described in this chapter.

Section ~~2~~4. Section **63M-2-202** is amended to read:

### **63M-2-202. Technology outreach innovation program.**

(1) As funding becomes available from the Legislature or other sources, the USTAR governing authority shall establish a technology outreach innovation program, also known as

## SB0223S01 compared with SB0223

the TOIP, at up to five locations distributed strategically throughout Utah.

(2) ~~[(a)]~~ The USTAR governing authority shall ensure that the technology innovation outreach program acts as a resource to:

~~[(i)]~~ (a) broker ideas, new technologies, and services to entrepreneurs and businesses throughout a defined service area;

~~[(ii)]~~ (b) engage local entrepreneurs and professors at applied technology centers, colleges, and universities by connecting them to Utah's research universities;

~~[(iii)]~~ (c) screen business ideas and new technologies to ensure that the ones with the highest growth potential receive the most targeted services and attention;

~~[(iv)]~~ (d) connect market ideas and technologies in new or existing businesses or industries or in regional colleges and universities with the expertise of Utah's research universities;

~~[(v)]~~ (e) assist businesses, applied technology centers, colleges, and universities in developing commercial applications for their research; and

~~[(vi)]~~ (f) disseminate and share discoveries and technologies emanating from Utah's research universities to local entrepreneurs, businesses, applied technology centers, colleges, and universities.

~~[(b)]~~ (3) In designing and operating the ~~[technology outreach program;]~~ TOIP, for each TOIP location the USTAR governing authority ~~[shall]~~:

~~[(i) for each technology outreach program location:]~~

~~(a) may hire a TOIP director;~~

~~[(A)]~~ (b) shall establish written performance standards and expectations ~~[for each location];~~ and

~~[(B)]~~ (c) shall require reporting ~~[from each location]~~ related to those performance standards and expectations on at least an annual basis~~[- and]~~.

~~[(ii) work cooperatively with the Technology Commercialization Offices at Utah State University and the University of Utah.]~~

(4) A TOIP director hired under Subsection (3) shall:

(a) be categorized as a schedule AC employee in accordance with Section 67-19-15;

(b) report to, and be supervised by, the executive director;

(c) ensure the TOIP serves to further the vision and mission of the USTAR initiative;

## SB0223S01 compared with SB0223

and

(d) as directed by the executive director, implement the policies and procedures adopted by the USTAR governing authority.

Section ~~33~~5. Section **63M-2-204** is amended to read:

### **63M-2-204. Financial participation agreement.**

(1) In consideration of the money and services provided or agreed to be provided, the state of Utah, Utah State University, and the University of Utah agree that they will allocate commercialization revenues as follows:

~~[(a) for the first \$15,000,000 received:]~~

~~[(i) \$10,000,000 to Utah State University and the University of Utah, with the money distributed proportionately based upon which university conducted the research that generated the commercialization revenues; and]~~

~~[(ii) \$5,000,000 to the USTAR governing authority for the ongoing operations of the USTAR initiative; and]~~

(a) for up to and including the first \$15,000,000 in commercialization revenues generated:

(i) 66.6% shall be retained by the research universities, with the money distributed proportionably to the university that generated the commercialization revenue; and

(ii) 33.4% shall be paid to the USTAR governing authority for the ongoing operation of the USTAR initiative;

(b) for all subsequent money received:

(i) 50% to Utah State University and the University of Utah, with the money distributed proportionately based upon which university conducted the research that generated the commercialization revenues; and

(ii) 50% to the USTAR governing authority or other entity designated by the state to be used for:

(A) unless prohibited by law, deposit with the state treasurer for deposit into the sinking fund created under Section 63B-1a-301 for debt service on the bonds issued to fund planning, design, and construction of the research buildings;

(B) ongoing operations of the USTAR initiative;

(C) replacement of equipment in the research buildings;



## SB0223S01 compared with SB0223

(D) recruitment and funding of additional research teams; and

(E) construction of additional research buildings.

Section ~~4~~6. Section 63M-2-301 is amended to read:

### **63M-2-301. The Utah Science Technology and Research Initiative and the Utah Science Technology and Research Governing Authority -- Creation -- Membership -- Meetings -- Staff.**

(1) There is created the Utah Science Technology and Research Initiative.

(2) To oversee the Utah Science Technology and Research Initiative, there is created the Utah Science Technology and Research Governing Authority consisting of the state treasurer or the state treasurer's designee, the executive director of the Governor's Office of Economic Development, and the following eight members appointed as follows:

(a) three appointed by the governor, with the consent of the Senate;

(b) two appointed by the president of the Senate;

(c) two appointed by the speaker of the House of Representatives; and

(d) one appointed by the commissioner of higher education.

(3) (a) (i) The eight appointed members shall serve four-year staggered terms.

(ii) The appointed members may not serve more than two full consecutive terms.

(iii) An appointed member may be removed from the board for any reason before the member's term is completed at the discretion of the governor after consultation with the governing authority.

(b) Notwithstanding Subsection (3)(a)(i), the terms of the first members of the governing authority shall be staggered by lot so that half of the initial members serve two-year terms and half serve four-year terms.

(4) Vacancies in the appointed positions on the governing authority shall be filled by the appointing authority [~~with consent of the Senate~~] in the same manner as the original appointment for the unexpired term.

(5) (a) The governor, with the consent of the Senate, shall select the chair of the governing authority to serve a one-year term.

(b) The governor may extend the term of a sitting chair of the governing authority without the consent of the Senate.

~~(b)~~ (c) The executive director of the Governor's Office of Economic Development

## SB0223S01 compared with SB0223

shall serve as the vice chair of the governing authority.

(6) The governing authority shall meet at least ~~[monthly]~~ six times each year and may meet more frequently at the request of a majority of the members of the governing authority.

(7) Five members of the governing authority are a quorum.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(9) (a) After consultation with the USTAR governing authority, the governor, with the consent of the Senate, shall appoint a full-time executive director to provide staff support for the USTAR governing authority.

(b) The executive director is an at-will employee who may be terminated without cause by the governor ~~{}~~ or ~~{, by the Senate, or}~~ by majority vote of the USTAR governing authority.

Section ~~{5}~~7. Section **63M-2-302** is amended to read:

### **63M-2-302. USTAR governing authority powers.**

(1) The USTAR governing authority shall:

(a) ensure that funds appropriated and received for research and development at the research universities and for the ~~[technology outreach program]~~ TOIP are used appropriately, effectively, and efficiently in accordance with the intent of the Legislature;

(b) in cooperation with the universities' administrations, expand key research at the two research universities;

(c) enhance technology transfer and commercialization of research and technologies developed at the research universities to create high-quality jobs and new industries in the private sector in Utah;

(d) review state and local economic development plans and appropriations to ensure that the USTAR initiative and its appropriations do not duplicate existing or planned programs;

(e) establish written economic development objectives for the USTAR initiative that are measurable and verifiable, including how to maximize revenue to the USTAR initiative so

## SB0223S01 compared with SB0223

that it becomes financially self-supporting;

(f) by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for allocating appropriated money for research teams and for the commercialization of new technology between Utah State University and the University of Utah;

(g) verify that the USTAR initiative is being enhanced by research grants and that it is meeting the governing authority's economic development objectives;

(h) monitor all research plans that are part of the USTAR initiative at the research universities to determine that appropriations are being spent in accordance with legislative intent and to maximize the benefit and return to the state; and

(i) develop methods and incentives to encourage investment in and contributions to the USTAR initiative from the private sector.

(2) The USTAR governing authority may:

(a) in addition to money received from the Legislature, receive contributions for the USTAR initiative from any source in the form of money, property, labor, or other things of value;

(b) subject to any restrictions imposed by the donation, appropriations, or bond authorizations, allocate money received by it among the research universities, technology outreach program, and technology transfer offices to support commercialization and technology transfer to the private sector; or

(c) enter into agreements necessary to obtain private equity investment in the USTAR initiative.

Section ~~63~~8. Section **63M-2-401** is amended to read:

### **63M-2-401. Reporting requirements.**

(1) By October 1 of each year, the USTAR governing authority shall submit to the governor; the Legislature; the Business, Economic Development, and Labor Appropriations Subcommittee; and the Economic Development and Workforce Services Interim Committee an annual written report of the operations, activities, programs, and services of the governing authority and the USTAR initiative for the preceding fiscal year.

(2) For each project, operation, activity, program, or service related to the USTAR initiative or overseen or funded through the USTAR governing authority, the annual report

## SB0223S01 compared with SB0223

shall include:

- (a) a description of the project, operation, activity, program, or service;
- (b) data selected and used by the governing authority to measure progress, performance, and scope of the project, operation, activity, program, or service, including summary data;
- (c) a clear description of the methodology for any data in the report that includes an estimation;
- (d) the amount and source of all USTAR initiative funding, including:
  - (i) funding from legislative appropriations;
  - (ii) funding procured outside of legislative appropriations, including a separate accounting of grants or investments contributing to research teams and other activities of the USTAR initiative from the federal government, private entities, or other sources, and an explanation of the extent to which:
    - (A) outside funding was contingent on or leveraged by legislative appropriations; and
    - (B) outside funding would continue if legislative appropriations were discontinued;
  - (iii) commercialization revenue, including a separate accounting of:
    - (A) realized commercialization revenue;
    - (B) unrealized [~~and expected~~] commercialization revenue; and
    - (C) commercialization revenue going to other parties attributable to USTAR initiative funding;
  - (iv) lease revenue from each building in which the USTAR governing authority holds title; and
  - (v) the amount of money deposited with the state treasurer for deposit into the sinking fund created under Section 63B-1a-301 for debt service on the bonds issued to fund planning, design, and construction of the research buildings;
- (e) all expenses of the USTAR initiative, including:
  - (i) operational expenses;
  - (ii) for each employee receiving compensation from USTAR initiative funding, compensation information, including:
    - (A) salary expenses, benefit expenses, and travel expenses;
    - (B) information for each research team employee and each employee of the

## **SB0223S01 compared with SB0223**

[~~technology outreach program~~] TOIP that receives compensation directly or indirectly through USTAR initiative funding; and

(C) information regarding compensation for each employee from sources other than USTAR initiative funding, including grants and compensation from a university or private entity;

(iii) for each research team, salary expenses, benefit expenses, travel expenses, and operations and maintenance expenses;

(iv) operational and maintenance expenses for each building in which the USTAR governing authority holds title;

(v) operational and maintenance expenses paid for by USTAR initiative funding for each location that has an established [~~technology outreach program~~] TOIP; and

(vi) each grant or other incentive given as a result of the USTAR initiative, including grants or incentives awarded through the [~~technology outreach program~~] TOIP;

(f) the number of jobs and the corresponding salary ranges created by the USTAR initiative, including the number of jobs where the employee is expected to be employed for at least one year and earns at least 125% of the prevailing wage of the county where the employee works;

(g) the name of each business entity receiving a grant or other incentive as a result of the USTAR initiative, including the outreach program;

(h) a list of business entities that have hired employees as a result of the USTAR initiative;

(i) the tax revenue generated as a result of the USTAR initiative, with actual revenue generated clearly separated from potential revenue;

(j) a list of intellectual property assets, including patents, generated by research teams as a result of the USTAR initiative, including a reasonable estimate of the USTAR initiative's percentage share of potential commercialization revenue that may be realized from those assets;

(k) a description of any agreements entered into regarding private equity investment in the USTAR initiative;

(l) beginning with data from the fiscal year beginning July 1, 2013, historical data from previous years for comparison with the annual data reported under this Subsection (2);

## **SB0223S01 compared with SB0223**

- (m) goals, challenges, and achievements related to the project, operation, activity, program, or service;
  - (n) relevant federal and state statutory references and requirements;
  - (o) contact information of officials knowledgeable and responsible for each project, operation, activity, program, or service;
  - (p) other information determined by the USTAR governing authority that:
    - (i) may be needed, useful, or of historical significance; or
    - (ii) promotes accountability and transparency for each project, operation, activity, program, or service with the public and with elected officials;
  - (q) the written economic development objectives required under Subsection 63M-2-302(1)(e) and a description of any progress or challenges in meeting the objectives; and
  - (r) the audit report described in Section 63M-2-402.
- (3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.
- (4) The governing authority shall:
- (a) submit the annual report in accordance with Section 68-3-14; and
  - (b) make the annual report and previous annual reports accessible to the public by placing a link to the reports on the USTAR initiative's website.
- (5) In addition to the annual written report described in this section:
- (a) upon the request of a committee, the USTAR governing authority shall provide information and progress reports to the Economic Development and Workforce Services Interim Committee; the Business and Labor Interim Committee; and the Business, Economic Development, and Labor Appropriations Subcommittee; and
  - (b) on or before October 1, 2019, and every five years after October 1, 2019, the USTAR governing authority shall include with the annual report described in this section a written analysis and recommendations concerning the usefulness of the information required in the annual report and the ongoing effectiveness of the USTAR initiative, including whether:
    - (i) the reporting requirements are effective at measuring the performance of the USTAR initiative;
    - (ii) the reporting requirements should be modified; and
    - (iii) the USTAR initiative is beneficial to the state and should continue.

## SB0223S01 compared with SB0223

Section ~~{7}9~~. Section **63M-2-402** is amended to read:

### **63M-2-402. Audit requirements.**

(1) Each fiscal year, an audit of the activities of the USTAR initiative shall be made as described in this section.

(2) (a) As approved by the Legislative Audit Subcommittee, the audit shall be conducted by:

(i) the legislative auditor; or

(ii) an independent auditor engaged by the legislative auditor.

(b) An independent auditor used under Subsection (2)(a)(ii) may not have a [~~business or contractual connection, or other connection,~~] direct financial conflict of interest with the USTAR initiative or the USTAR governing authority.

(3) The USTAR governing authority shall pay the costs associated with the annual audit.

(4) The annual audit shall:

(a) include a verification of the accuracy of the information required to be included in the annual report described in Section 63M-2-401; and

(b) be completed by September 1 of each year.

†

### **Legislative Review Note**

———— as of ~~2-17-15 2:52 PM~~

———— ~~Office of Legislative Research and General Counsel~~